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Dated: June 9, 2003

Signature: *Shawn P. Foley*
(Shawn P. Foley)



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Docket No.: EGYPSTA 3.0-013
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Legrain et al.

Application No.: 09/921,397

Filed: August 2, 2001

Group Art Unit: N/A

Examiner: M. Mosher

For: **SID NUCLEIC ACIDS AND POLYPEPTIDES
SELECTED FROM A PATHOGENIC STRAIN
OF HEPATITIS C VIRUS AND
APPLICATIONS THEREOF**

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office communication mailed May 7, 2003. In order to "completely" respond to the prior Office communication (mailed November 8, 2002), Applicants hereby elect SEQ ID NO:58. In their prior response, Applicants traversed the requirement for restriction, and requested modification of same so as to include other claims that recite the nucleic acids elected for examination, e.g., claims 27-30, 44-50 and 64, on the ground that the inventions defined by these claims were technologically inter-related and that the searches would not necessarily be divergent or unduly burdensome. Applicants' request has been addressed only to the extent that the Examiner has indicated that if the product is found to be allowable, any process claims that include the limitations of the allowable product claimed will be "rejoined." Accordingly, this election is being made, once again, with traverse.

For instance, Applicants submit that the Examiner has not properly established that the inventions 39-76 and 153-190, may be combined as a combination and sub-combination as set forth in MPEP§806.05(c). In this case, there is no evidence that the combination i.e.,

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inventions 153-190 set forth in claims 44-50, is patentable without the details of the sub-combination *i.e.*, inventions 39-76 set forth in claims 1-6, 12-22 and 62. Thus, two-way distinctness between the groups has not been properly established. See, MPEP §806.05(c)(II). Accordingly, Applicants respectfully request modification of the restriction requirement to examine claims 44-50 along with the elected claims.

Aside from the foregoing, the Examiner is respectfully reminded of proper procedure for examination pursuant to an election of species, such as in the present case, as set forth in MPEP §809.02(c).

The Examiner is encouraged to contact the undersigned if she has any questions.

Dated: June 9, 2003

Respectfully submitted,

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